

**Title 13**  
**ECONOMIC DEVELOPMENT**  
**Part I. Business Development**  
**Subpart 3. Business Resources**

**§ 1101. General – QUALITY JOBS PROGRAM**

**A. Intent of Law**

1. To provide benefits used primarily as an inducement for businesses to locate or expand existing operations in Louisiana in accordance with *Louisiana Vision 2020* with a focus on Louisiana's traditional and seed clusters.
  - a. To provide appropriate incentives to support employers who will make significant contributions to the development of the economy of the state.
  - b. To provide or make available incentives that shall be directly related to the new direct jobs created as the result of the employer locating or expanding existing operations in the state.
  - c. The Departments of Economic Development, Revenue and Labor shall implement the provisions of this program.

**B. Program Description**

1. A qualified employer must create a minimum of five (5) new direct jobs. If the employer employs more than fifty (50) employees prior to the beginning of the contract, it must have an annual gross payroll for new direct jobs equal to or greater than \$500,000. If the employer employs fifty (50) or less employees, it must have an annual gross payroll for new direct jobs equal to or greater than \$250,000. The annual payroll for new direct jobs must be created by the third fiscal year of the contract.
2. A qualified employer must employ full-time employees working thirty-five (35) or more hours per week in new direct jobs. If the qualified employer is a Call Center (NAICS code 56142) it must employ full-time employees working thirty (30) or more hours per week in new direct jobs.
3. The amount of the rebate is directly related to the new direct jobs created and to the new annual gross payroll generated as the result of a qualified employer locating or expanding in the state.
4. Additionally, the qualified employer is entitled to sales and use tax rebates authorized in R.S. 51:1787 if the employer meets the Enterprise Zone Program hiring requirements.

5. Approval by the Louisiana Board of Commerce and Industry and the Governor of Louisiana is required, after consultation with the Secretary of the Department of Labor and the Secretary of the Department of Revenue.
6. An establishment that is engaged in retail; business associations and professional organizations; state and local government enterprises; real estate agents, operators, and lessors; automotive rental and leasing; local solid waste disposal, local sewage systems, and local water systems; nonprofit organizations; the gaming industry; and attorneys **shall not** be eligible for rebates under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:961 (October 1996); LR 26; amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR \_\_\_\_\_ (\_\_\_\_ 2002).

### **§ 1103. Definitions**

The following words or terms shall have the following meaning, unless a different meaning appears from the context:

**Affiliate** means any business entity (1) controlled by the applicant business; or (2) which is a controlling owner of the applicant business; or (3) which is controlled by an entity described in (1) or (2). “Control” is defined as owning either directly or indirectly through control of or by another business entity:

1. A majority of the voting stock or other voting interest of such business entity or the applicant business; or
2. Stock or other interest whose value is a majority of the total value of such business entity or the applicant business.

However, a business entity may be treated as a non-affiliate if the applicant business proves that neither the applicant business nor any of its controlling owners exercise authority over the management, business policies and operations of the business entity.

**Basic health benefits plan** or the **health insurance coverage** means that which is required to be offered and/or provided shall include coverage for basic hospital care, coverage for physician care, and coverage for health care which shall be the same as that provided to executive, administrative, or professional employees.

**Benefit rate** means one of the following percentages.

1. For new direct jobs created which pay at least one and three-fourths (1 3/4) times the federal minimum hourly wage rate, the benefit rate shall be five percent (5%).

2. For new direct jobs created which pay at least two and one-fourth times (2 1/4) the federal minimum hourly wage rate and meet **one** of the following criteria, the benefit rate shall be six percent (6%).
  - a. The new direct jobs are located in a distressed region designated by the Department of Economic Development. If an area is designated a distressed region, such designation shall be maintained for the period of the initial contract and during the renewal contract. To qualify an employer shall either be located in a distressed region or at least fifty percent (50%) of the new direct jobs of the employer shall be filled by persons who reside in a distressed region.
  - b. The new direct jobs are with an employer categorized in a traditional or seed cluster identified by the Louisiana Economic Development Council and the Department of Economic Development. The Department of Economic Development shall promulgate rules and regulations defining traditional or seed cluster employers prior to these rules taking effect.

**Department** shall mean the Louisiana Department of Economic Development.

**Distressed region** shall be defined as one of the following.

1. A parish with a per capita income in the lowest twenty-five percent of the parishes.
2. A census tract and block group that is below the state median per capita income, based on the most recent federal decennial census.

**Employer** shall mean a legal person who executes a contract with the department pursuant to the provisions of R.S. 51:2452-2462, and who offers, or will offer within ninety (90) days of the effective date of qualifying for the incentive rebates, a basic health benefits plan to the individuals it employs in new direct jobs.

1. For advance notifications filed with the department before June 1, 2000, the employer shall pay not less than fifty percent (50%) of the insurance premium.
2. For advance notifications filed with the department on or after June 1, 2000, but before May 1, 2002, the employer shall pay not less than seventy-five percent (75%) of the premium for full-time employees. The employer shall offer group coverage for dependents of full-time employees, but the employer is not required to pay the premium.
3. For advance notifications filed with the department on or after May 1, 2002, the employer shall offer the employee with the choice of one of the following health insurance coverage programs.
  - a. The employer shall pay not less than eighty-five percent (85%) of the total premium for full-time employees choosing to participate under individual coverage and shall

offer coverage for dependents of full-time employees, but the employer is not required to pay the premium.

- b. The employer shall pay not less than fifty percent (50%) of the total premium for full-time employees who choose to participate and choose to cover their dependents.

**Gross payroll** means wages for the new direct jobs upon which the specified benefit rate is calculated.

**NAICS** shall mean North American Industrial Classification System

**New direct job** means:

1. Employment in the state of an employee working the average hours per week provided in LAC 1101.B.2.
2. An employee who was not previously on the employer's payroll.
3. An employee who was not previously on the payroll of the employer's parent entity, subsidiary, or affiliate.
4. An employee who was not previously on the payroll of any business whose physical plant and employees are substantially the same as those of the employer.
5. A new direct job shall be with an employer that has qualified for the incentive rebate.
6. A new direct job did not exist in this state prior to the advance notification being filed by the employer with the department pursuant to the provisions of R.S. 51:2455.
7. The new direct job is filled by an individual domiciled in the state of Louisiana.
8. A new direct job shall not be a job that is the result of job shifts due to the gain or loss of an in-state contract to supply goods and services.
9. A new direct job shall not mean an employee retained following the acquisition of all or part of an in-state business by an employer.

**Wages** means all remuneration for services from whatever source, including commissions and bonuses and the cash value of all remuneration in any medium other than cash, and dismissal payments which the employer is required by law or contract to make. Gratuities shall be estimated in accordance with the Internal Revenue code and its rules and regulations. Wages shall not include the following:

1. The amount of any payment with respect to services performed after January 1, 1951, to or on behalf of an individual in its employ under a plan or system established by an

employer which makes provision for individuals in its employ generally, or for a class of classes of such individuals, including any amount paid by an employer for insurance or annuities, or into a fund to provide for any such payment, on account of:

- a. Retirement
  - b. Sickness or accident disability
  - c. Medical and hospitalization expenses in connection with sickness or accident disability.
  - d. Death, provided the individual in its employment does not have the option to receive, instead of provision of such death benefit, any part of such payment or, if such death benefit is insured, any part of the premium or contributions to premiums paid by his employer or does not have the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit or to receive cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon the termination of such plan or system or policy of insurance or of his services with such employer.
  - e. A bona fide thrift or savings fund, providing such payment is conditioned upon a payment of a substantial sum by such individuals in its employment and such sum paid by the employer cannot under the provisions of such plan be withdrawn by an individual more frequently than once in any 12 month period, except upon an individual's separation from that employment
2. Any payment made to, or on behalf of, an employee or his beneficiary under a cafeteria plan of the type described in 26 U.S.C. 125 and referred to in 26 U.S.C. 3306(b)(5)(G).
  3. Any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such financing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under an educational assistance program as described in 26 U.S.C. 127 or a dependent care assistance program as described in 26 U.S.C. 129 and as referred to in 26 U.S.C. 3306(b)(13).
  4. The payment by an employer, without deduction from the remuneration of the individual in its employ, of the tax imposed upon such individual in its employ under Section 3 101 of the federal Internal Revenue code with respect to domestic services in a private home of the employer or for agricultural labor performed after December 31, 1980.
  5. Dismissal payments that the employer is not required by law or contract to make.
  6. The value of any meals and lodging furnished by or on behalf of an employer to an individual in his employ, provided the meals and lodging are furnished on the business premises of the employer for the convenience of the employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:961 (October 1996); LR26; amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR \_\_\_\_\_ (\_\_\_\_2002).

## § 1105. Qualified Employers

A. To qualify for a contract an employer must meet one of the following provisions.

1. Be one of the six Vision 2020 cluster industries
  - a. Medical and Biomedical
  - b. Micromanufacturing
  - c. Software, Auto Regulation, Internet, and Telecommunications Technology
  - d. Environmental Technologies
  - e. Food Technologies
  - f. Materials
2. Be a **manufacturer** and the employer's primary function identified by NAICS codes 113310, 211, 213111, 541360, 311-339, 511-512, and 54171.
3. Be an **oil and gas field services business** as defined by the NAICS code 213112 and must pay not less than \$30,000 per year for each new direct job, and Louisiana must be the national or regional headquarters of a multi-state business whose service territory includes Louisiana and the Gulf of Mexico.
4. Have or will have **sales of at least 75%** of its total sales within one year:
  - a. To out-of-state customers or buyers;
  - b. To in-state customers or buyers if the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use;
  - c. To the federal government.
5. Have or will have **sales of at least 50%** of its total sales within one year:
  - a. To out-of-state customers or buyers;

- b. To in-state customers or buyers if the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use;
- c. To the federal government;

And, must meet **one** of the following additional provisions:

- (1) Must be classified as an industry defined by NAICS codes that have a direct state employer multiplier of 2.0 or greater in accordance to the Regional Input/Output Multiplier System II or its successor.
  - (2) Must be a central administrative office that influences the environment in which data processing, customer service, credit accounting, telemarketing, claims processing, and other administrative functions are accomplished.
  - (3) Must have data processing, back office operations, and telephone call center operations (NAICS code 56142).
  - (4) Must be a wholesale trade business (NAICS code 42) and have a distribution center of not less than 25,000 square feet.
6. Must be a **National Basketball Association Team**, which relocates to Louisiana and may enter into a contract provided prior to November 1, 2003. However, contracts with such teams:
- a. Shall not be granted a tax rebate greater than \$3,650,000 in any taxable year.
  - b. Shall not allow the salary of any person who owns more than twenty-five percent (25%) of such team to be included in the gross payroll to calculate the rebate.
  - c. May be renewed for an additional five (5) years, provided the team has complied with all the terms of the contract, has not performed, or failed to perform, any act which made the applicant liable for suspension.
  - d. Shall be awarded a benefit rate of no more than five percent (5%).
  - e. Shall include the wages of players and coaches of the team subject to Louisiana income tax in the calculation of the gross payroll, even though the players and coaches may be non-residents of Louisiana.

**B.** The following employers or persons shall NOT be eligible for benefits provided under this chapter:

- 1. Retail employers identified by NAICS code sections 44 and 45.

2. Business associations and professional organizations identified by NAICS code 8139.
  3. State and local government enterprises.
  4. Real estate agents, operators, and lessors.
  5. Automotive rental and leasing.
  6. Local solid waste disposal, local sewage systems, and local water systems businesses.
  7. Nonprofit organizations.
  8. Employers engaged in the gaming industry identified by NAICS code sections 713210 and 721120.
  9. Attorneys.
- C. The Department of Economic Development may promulgate rules annually listing other ineligible employers, professions, or service industries that are not eligible for rebates under the provisions of this program. Such rules shall not take place until the Louisiana Economic Development Council, the House Committee on Ways and Means, and the Senate Committee on Revenue and Fiscal Affairs approves.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:961 (October 1996); LR 26; amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR \_\_\_\_\_ (\_\_\_\_ 2002).

#### **§ 1107. Application Fees, Timely Filing**

- A. The applicant shall submit an advance notification on the prescribed form before locating the establishment or the creation of any new direct jobs in the state. All financial incentive programs for a given project shall be filed at the same time, on the same advance notification form. An advance notification fee of \$100, for each program applied for, shall be submitted with the advance notification form. An advance notification filing shall be considered by the Department to be a public record under Louisiana Revised Statutes, Title 44, Chapter 1, Louisiana Public Records Law, and subject to disclosure to the public.
- B. An application for the Quality Jobs Program must be filed with the Office of Business Development, P.O. Box 94185, Baton Rouge, Louisiana 70804-9185 on the prescribed forms within ninety (90) days of the creation of the jobs or completion of the project, which ever occurs first. Failure to file an application may result in the application being denied or restricted.



- C. An application fee shall be submitted with the application based on the following:
1. Two tenth of a percent (0.2%) times the estimated total incentive rebates (see application fee worksheet to calculate).
  2. The minimum application fee is \$200 and the maximum application fee is \$5,000 for a single project.
  3. The check is made payable to the **Louisiana Department of Economic Development**.
- D. A Project Completion Report shall be filed within ninety (90) days after the completion of construction/installation.
- E. An Affidavit of Annual Certification shall be filed within ninety (90) days of completing a company's fiscal year. A fee of \$100 must be filed with the initial report.
- F. An application to renew a contract shall be filed within sixty (60) days of the initial contract expiring. A fee of \$50 must be filed with the renewal contract.
- G. The Office of Business Development reserves the right to return the advance notification, application, or affidavit of annual certification to the applicant if the estimated exemption or the fee submitted is incorrect. The document may be resubmitted with the correct fee. The document will not be considered officially received and accepted until the appropriate fee is submitted. Processing fees for advance notifications, applications, or affidavits of annual certification that have been accepted for eligible projects, shall not be refundable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:961 (October 1996); LR26; amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR \_\_\_\_\_ (\_\_\_\_ 2002).

## **§ 1109. Application Review, Analysis, Evaluation, Determination**

### **A. Application Review**

1. The Department will assign a project number and review the advance notification form to determine if the employer is qualified pursuant to LAC 11:I.1105.A. The employer will be notified of the project number and due date of the application packet.
2. The application packet must be completed and returned to the Department of Economic Development by the due date. The Department must authorize any omissions to the application by the employer in writing. If the application is incomplete, the Department may request additional information prior to further action. The application fee must accompany the application packet pursuant to LAC 11:I.1107.C.

**B. Analysis, Evaluation, Determination**

1. The Department shall determine qualification for the employer.
  - a. The employer shall create a minimum of five (5) new direct jobs.
  - b. The employer shall meet the annual payroll requirements pursuant to LAC 11:I.1101.B.1 and 2.
  - c. The employer shall offer a basic health benefits plan to the individuals it employs in new direct jobs pursuant to LAC 11:I.1103.B. A copy of said plan must be provided to the Department.
  - d. The Department will analyze the proposed new direct jobs to determine they meet the program criteria.
  - e. The employer must furnish all sources of remuneration that make up the wages that are used in the determination of the gross payroll. A listing that will identify all positions and wages of all employees shall be furnished to verify the gross payroll.
  - f. The Department will determine the effective date of the contract.
2. The Department shall determine the benefit rate pursuant to LAC 11:I.1103.E and F and LAC 11:I.1105.A.5.c.(5).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:961 (October 1996); LR26; amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR \_\_\_\_\_ (\_\_\_\_ 2002).

**§ 1111. Consultation with the Departments of Labor and Revenue**

- A.** The Department will provide a copy of the application and all relative information to the Department of Labor and the Department of Revenue for review. Either the Department of Labor or the Department of Revenue or both may require additional information from the applicant.
- B.** The Department must obtain a letter-of-no-objection or a letter-of-approval from the Department of Labor and the Department of Revenue, prior to submitting the application to the Board of Commerce and Industry for action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of

Commerce and Industry, Financial Incentives Division, LR 22:961 (October 1996); LR26; amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR \_\_\_\_\_ (\_\_\_\_2002).

**§ 1113. (Blank for Future Use)**

**§ 1115. Economic Development Recommendations to Board**

- A. The Department after review and analysis will prepare the application information in a format suitable for presentation to the Board of Commerce and Industry.
- B. The Department will make a presentation to the Board of Commerce and Industry as to the economic impact and the benefits to be received.
- C. The Department will make recommendations for approval or disapproval, and will provide information on behalf of the Department of Labor and the Department of Revenue.
- D. The Board of Commerce and Industry must approve the application prior to a contract being issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:961 (October 1996); LR26; amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR \_\_\_\_\_ (\_\_\_\_2002).

**§ 1117. The Contract**

- A. The Board of Commerce and Industry or its successor, after no-objection from the Secretaries of the Department of Labor and the Department of Revenue, with the approval of the governor, may enter into a contract with an employer for a period up to five years.
  - 1. A contract with an employer shall be limited to a single physical location, and the benefits the employer shall receive will be based solely upon the operations at that location.
  - 2. An employer may have more than one contract covering multiple locations; however, the eligibility of each location shall be determined separately, with the exception of determining new direct jobs. The Department shall certify that the employer has a net overall increase in employment statewide for each new direct job.
- B. The contract may be renewed for an additional five years provided that:

1. The employer has complied with all the terms of the contract.
2. The employer has met the statutory minimum hourly wage for the new direct jobs subject to the benefit rate established when the contract was entered into and the hourly wage has increased by an amount which is equal to or greater than one of following:
  - a. The wage rate has grown by the percentage increase in the Consumer Price Index published by the U.S. Department of Labor for the five years of the initial term of the contract, compounded.
  - b. The wage rate has increased by two percent (2%) for the five years of the initial term of the contract, compounded.

**C. No contract shall be executed if:**

1. An employer has defaulted, not repaid a loan, or not repaid an obligation involving public funds. Also, if an employer declared bankruptcy and the obligation to pay or repay public funds or monies was discharged as part of such bankruptcy a contract shall not be executed.
2. An employer who is in default on any filing or payment to the state, to any of its agencies, or to any of its political subdivisions, and in which an assessment or judgment is final.
3. An employer who employs more than fifty (50) employees who has entered into a contract or other agreement with any person or entity where required payment is contingent upon their success in obtaining the benefits of this program.

**D. Contract Voided**

1. Violation of the provisions of LAC 11:I.1117.C shall void the contract and any rebates paid to the employer prior to the date the violation is discovered, the rebates will be recovered by adding to the income tax liability for the taxable year the violation occurred. Additionally, interest will be assessed from the date of the violation and the employer shall receive no further rebates.

**E. Contract Suspended**

1. If a rebate is received by an employer as provided under this provision and the employer is rendered an assessment or judgment that is final and nonappealable in favor of the state or any of its agencies or any of its political subdivisions, the contract shall be suspended pending the settlement of the assessment. No rebate shall accrue to the employer under the contract during the period of suspension.
2. If at any time during the ten-year contract period the employer applies for a rebate following the end of the employer's fiscal year, and the verified gross payroll for the

fiscal year does not demonstrate the required minimum of five new direct jobs and the gross payroll does not equal or exceed a total of \$500,000 or \$250,000, whichever is applicable to said contract, the rebates shall be suspended and shall not be resumed until such time as the payroll and job requirements are met. No rebate shall accrue or be paid to the employer during a period of suspension.

#### **F. Contract Rebates Reduced**

1. If the employer receives a rebate and it is subsequently determined the employer did not qualify for the rebate, future rebates will be reduced by the amount received by the employer.
2. If there are no future rebates to deduct the amount owed the state, the tax liability of the employer will be increased by the amount of the rebate for the taxable period non-qualification was determined.
3. The secretary of the Department of Revenue may recover any rebates previously granted to an employer but which rebates disallowed as authorized by R.S. 47:1561.2. The employer shall waive prescription for the purpose of recovering any disallowed rebates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:961 (October 1996); LR26; amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR \_\_\_\_\_ (\_\_\_\_ 2002).

#### **§ 1119. Incentive Rebates**

- A.** Except as otherwise provided herein an employer who has entered into a contract may receive a rebate that is calculated by multiplying the benefit rate, as defined in LCA 1103.F.1 and 2, times the annual gross payroll of new direct jobs, as defined in LCA 1103.H.1-9, for the specified period in the contract.
- B.** Notwithstanding anything to the contrary in either Chapter 1 or Chapter 5 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, as amended, the following rules shall apply with respect to the application of the rebate allowed:
  1. The incentive rebate allowed an S corporation shall be paid to the S corporation entity and not the individual shareholders of the corporation.
  2. The incentive rebate allowed a partnership, limited liability partnership (LLP), or limited liability company (LLC) shall be paid to the entity and shall not be paid to the individual partners or members of the entity.

- C. Notwithstanding any other provision of law to the contrary in Title 47 of the Louisiana Revised Status of 1950, as amended, the Secretary of the Department of Revenue shall make the rebate.
- D. In order to receive the rebate provided for by the contract, an employer shall apply with the Department.
  - 1. The application shall be filed on the prescribed form designated by the Department and shall contain the required information to determine if the applicant is qualified.
  - 2. The application shall contain a sworn statement, by a duly authorized officer of the employer, listing the names of persons or other entities who have received or who will receive any payment or other consideration from the employer for the purpose of representing the employer in applying for or receiving the benefits of this program.
- E. In order to qualify to receive the rebate, the employer applying shall meet the requirements of LCA 1101.B.1 and 2.
- F. The Department shall determine if an applicant is qualified to receive rebates.
- G. The approved employer shall apply annually for rebates with the Department in the prescribed format and provide the information as described in LCA 1123. The employer may be audited by the Department to verify eligibility. The rebates may continue as long as the employer complies with the approved contract and remains eligible.
- H. The benefit rate shall be determined annually based on information provided by the employer on the rebate claim reports made annually.
- I. The payroll rebates shall be paid annually after the employer submits the required annual report as specified in LCA 1123 and the Department determines the employer is eligible for the rebate for that fiscal year. The report shall be filed within ninety (90) days following the end of the employer's fiscal year with the Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:961 (October 1996); LR26; amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR \_\_\_\_\_ (\_\_\_\_ 2002).

## § 1121. Rebate Payments

- A. In addition to the payroll rebates, an employer shall be entitled to sales and use tax rebates as authorized in R.S. 51:1787, if the employer meets the hiring requirements as defined in the Enterprise Zone Program and meets the other limitations, procedures, and requirements of R.S. 51:1787 and the rules promulgated there under, Louisiana Administrative Code, Title 13, Part I, Chapter 7.

- B.** An employer may request rebates of local sales and use taxes. This request must be accompanied by an endorsement resolution approved by the local governing authority of the appropriate municipality, parish, port district, or industrial district board in whose jurisdiction the employer is or will be located and taxes are paid. The endorsement resolution must clearly state if the local governmental subdivision intends to rebate the allowable sales and use taxes for the project. A copy of the resolution must be filed with the Department of Economic Development prior to action taken by the Board on the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:961 (October 1996); LR26; amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR \_\_\_\_\_ (\_\_\_\_ 2002).

### **§ 1123. Rebate Claim Filing**

#### **A. Payroll Rebate**

1. A qualified employer must file annually an Affidavit of Annual Certification within ninety (90) days of the completion of employer's fiscal year with the Department to claim the payroll rebate.
2. The annual report will provide information on the number of employees at the site, the number of employees statewide, the number of new direct jobs created at the site, the number of hours worked by each employee weekly, the hourly wage paid employees in the new direct jobs, the position title, the employee's address, the hire date, the term date, the insurance acceptability, the percentage of the insurance paid by the employer, and the annual gross wages.
3. The Department may request additional information from the employer as may be necessary to determine the eligibility for the annual rebate for that fiscal year or may request the employer revise the annual report.
4. Upon approval the Department will advise the Department of Revenue the eligible rebate. The Department of Revenue shall make payment of the rebate after offset, if applicable, under R.S. 47:1622. The rebate shall be considered a refundable overpayment for the purpose of such offset.
5. If the actual verified gross payroll for the employer's third annual fiscal year does not show a minimum of five (5) new direct jobs and does not equal or exceed a total annual payroll of \$500,000 or \$250,000, whichever is applicable, the employer will be determined to be ineligible under this Chapter. The Department of Revenue will be

notified and the tax liability for the current tax period in which the failure to meet the requirements occurs shall be increased by the amount of rebates previously allowed.

**B. Sales and Use Tax Rebate**

1. An annual Employee Certification Report must be filed on all active contracts for the employer to qualify for the sales and use tax rebate under this Chapter.
2. The "beginning number" from which the net new jobs will be determined shall be the number of employees that an employer has on the day before the effective date of the contract.
3. An employee count will be taken from the employer's entire contiguous site for the purposes of calculating the jobs.
4. Monthly totals of permanent full time employees will be averaged over a minimum of six months to determine the number of jobs generated. Part time employees may be counted after completing a minimum of six months of continuous employment comprised of a minimum of 20 hours every week during that continuous period. Only employees reported on the Louisiana Department of Labor's Unemployment Insurance Report will be used to calculate the average monthly total. In no case shall the new employees exceed the net increase in the total employment.
5. If the Employee Certification Report substantiates that the company has not met the hiring requirements under these rules, the employer will not be eligible for the sales and use tax rebate. The Department will notify the Department of Revenue of the ineligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:961 (October 1996); LR26; amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR \_\_\_\_\_ (\_\_\_\_2002).

**§ 1125. Prohibited Incentives**

- A.** A qualified employer that enters into a contract under this Chapter shall not be eligible to receive the other credits or exemptions provided for in the following provisions of law except as provided for in R.S. 51:2456(B):
1. R. S. 47:34 (tax credit for generation of new jobs in Louisiana);
  2. R.S. 47:38 and 287.757 (income tax credit for conversion of vehicles to alternate fuel usage);



3. R.S. 47:4301 through 4306 (Industry Assistance Program - income tax, corporate franchise tax, state sales tax, and excise tax exemptions for manufacturing establishments);
4. R.S. 47:6004 (employer credit for employment of previously unemployed person);
5. R.S. 47:6009 (Louisiana basic skills training tax credit-income tax credit);
6. R.S. 47:6010 (employer income tax credit for employee alcohol and substance abuse treatment programs);
7. R.S. 51:1787 (Enterprise Zone Program - incentives tax exemption from sales and use tax materials to be used in the construction of a building and for machinery and income tax credit for each employee in an enterprise zone);
8. R.S. 47:287.748 (re-entrant jobs credit for formerly incarcerated employees-corporate income tax);
9. R.S. 47:287.749 (corporate income tax credit for new jobs);
10. R.S. 47:287.753 (neighborhood assistance income tax credit).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:961 (October 1996); LR26; amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR \_\_\_\_\_ (\_\_\_\_ 2002).

## **§ 1127. Penalties**

Penalties are provided under R.S. 51:2460 for false or fraudulent information in making application, making a claim for rebate, or other instrument.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:961 (October 1996); LR26; amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR \_\_\_\_\_ (\_\_\_\_ 2002).

## **§ 1129. Termination of Program**

The Board of Commerce and Industry shall approve no new applications for rebates as provided for under this chapter on and after January 1, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:961 (October 1996); LR26; amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR \_\_\_\_\_ (\_\_\_\_ 2002).

### **§ 1131. Severability**

If any Section or provision of this Chapter is held invalid, such invalidity shall not affect other provisions of this Chapter. Any provision of this Chapter that is in conflict with R.S. 51:2451 - R.S. 51:2462 or any other statute will be invalid and will be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:961 (October 1996); LR26; amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR \_\_\_\_\_ (\_\_\_\_ 2002).